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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the application of:

Charles Edward Bowers

Docket: 30-4397 DIV-1

Serial Number: 10/631,321

Group Art Unit: 3765

Filed: July 31, 2003

Examiner: Shaun R. Hurley

For: UNTWISTED WRAPPED SINGLES YARNS AND CARPETS  
MANUFACTURED THEREFROM

**COMPLIANT BRIEF FOR APPELLANT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an Appeal to the Board of Patent Appeals and Interferences from the final rejection of claims 27, 28 and 30-47 mailed March 27, 2007 in the above identified case. A notice of appeal was previously filed together with Appellant's second brief on April 27, 2007. The Examiner has now submitted a Notice of Non-Compliant Appeal Brief, stating that the brief does not contain a statement of status of all claims. Appellants submit that this issue has been corrected in the brief below. An oral hearing is not requested.

No fee is required since an earlier appeal brief fee of \$500.00 was paid with the Appellants' first brief, filed on August 4, 2006. In the event that the Commissioner determines that an extension of time is required in order for this submission to be timely, it is requested that this submission include a petition for an extension for the required length of time, and the Commissioner is authorized to charge any additional fees necessitated by this paper to Deposit Acct. No. 01-1125.

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#### I. REAL PARTY IN INTEREST

The real party in interest is Honeywell International, Inc., which changed its corporate name from AlliedSignal, Inc, the assignee of record.

#### II. RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, please note that related U.S. patent application serial no. 10/631,320 filed on July 31, 2003 is currently on appeal (method claims). The notice of appeal was filed on December 27, 2005 and the appeal brief was filed on February 7, 2006. This file has been assigned appeal number 2006-2287. However, it is not believed that this appeal directly affects or is directly affected by the appeal 10/631,320, nor has a bearing on the Board's decision in this appeal.

#### III. STATUS OF CLAIMS

The claims in the application were 1-47. Claims 1-26 and 29 have been cancelled. Claims 27, 28 and 30-47 are pending, stand rejected, and are on appeal. No claims are allowed.

#### IV. STATUS OF AMENDMENTS

The Examiner withdrew all grounds of rejection previously on appeal, and issued a subsequent office action on November 3, 2006 with new grounds of rejection.

Applicants submitted a response on November 15, 2006 with no amendments to the claims. The Examiner found Applicants' response unpersuasive, and issued a new final rejection on March 27, 2007. No amendments were filed after this new final rejection.

## V. SUMMARY OF THE CLAIMED SUBJECT MATTER

27. A Saxony carpet untwisted wrapped singles yarn comprising:

- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and
- b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn;

wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

Support for feature (a), a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn, can be found on page 4, line 22 through page 6, line 7 of the specification.

Support for feature (b), a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn, can be found on page 4, line 22 through page 5, line 29 and on page 8, lines 20-21 of the specification.

Support for a wrapper yarn comprising at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber can be found on page 4, line 22 through page 5, line 29, and on page 8, lines 27-32 of the specification.

28. A Saxony carpet manufactured from an untwisted wrapped singles yarn, wherein the untwisted wrapped singles yarn comprises:

- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and

b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn;

wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

Support for feature (a), a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn, can be found on page 4, line 22 through page 6, line 7 of the specification.

Support for feature (b), a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn, can be found on page 4, line 22 through page 5, line 29 and on page 8, lines 20-21 of the specification.

Support for a wrapper yarn comprising at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber can be found on page 4, line 22 through page 5, line 29, and on page 8, lines 27-32 of the specification.

A Saxony carpet is a type of carpet in which the individual pile yarn tufts are well defined giving a pointilist effect (see page 1, lines 23-24). The Saxony carpets of the invention have a surface appearance, individual tip retention, pile density, resilient hand and wear resistance comparable or superior to conventional Saxony carpets made from multiple plied twist set yarns (see page 1, lines 11-15). The inventive carpets are formed by a process which is an alternative to methods that require typical twisting procedures, avoiding the problems associated with typical twist set carpets, and thereby providing a solution to a need in the art (see page 3, lines 1-5, page 3 lines 13-21, page 5, lines 19-29).

## VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(a) Claims 27, 28 and 30-47 stand rejected under 35 U.S.C. 103 over Groshens et al. (US 5,414,984) in view of Tung (US 5,284,009).

## VII. ARGUMENT

The Examiner has rejected claims 27, 28 and 30-47 as being unpatentable under 35 U.S.C. 103 over Groshens et al. (US 5,414,984) in view of Tung (US 5,284,009). . Appellants respectfully urge that this is not the case.

Appellants wish to initially point out that the present application is a divisional of U.S. patent application serial number 09/723,643 filed on November 28, 2000, now U.S. Patent No. 6,658,835. Neither Groshens et al. nor Tung were cited as relevant references by the Examiner during that prosecution, and it is urged that these references likewise do not apply to the presently claimed invention. Particularly, Groshens et al. is unrelated to the art of carpet manufacture, and it only teaches reinforcement threads for reinforcing existing woven or knitted fabrics and textiles. Groshens et al. does not teach or suggest the use of their reinforcement fibers for the formation of carpets at all, and certainly not Saxony carpets. Prior art references used in obviousness determinations must be either in the field of the inventor's endeavor or reasonably pertinent to the problem that the invention solves. Appellants submit that the Examiner is looking beyond the teachings of Groshens in forming his rejection.

The presently claimed invention relates to a Saxony carpet untwisted wrapped singles yarn. More particularly, the invention pertains to a Saxony carpet untwisted wrapped singles yarn comprising: a) a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and b) a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn; wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base

synthetic fiber. The invention also pertains to Saxony carpets which are formed using untwisted wrapped singles yarns.

Groshens teaches non-slip reinforcement threads for fabric coverings or textiles to be incorporated into a textile base, the reinforcement thread comprising a core thread, first cladding fibers adhesively attached to the core thread, and optionally second cladding fibers lodged in rough areas formed by the first cladding fibers. Groshens core thread may be a monofilament or a multifilament, as illustrated in Fig. 6A. However, they do not teach or suggest that their core thread may be a sliver, which is a continuous strand of loosely assembled fibers without twist, or a bulked continuous filament yarn, which is a texturized or crimped continuous filament yarn that forms tufts in a carpet. Further, the reference fails to teach or suggest a wrapper yarn that is either a spun staple yarn or a continuous filament yarn, which wrapper yarn comprises at least one base synthetic fiber material and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber. Groshens does teach the use of an adhesive substance for attaching the first cladding fibers to the core thread. However, this is not the same as a wrapper yarn comprises at least one base synthetic fiber material and a heat activated binder fiber, particularly where the binder fiber has a melting point at least 20°C lower than the base synthetic fiber.

Furthermore, a thorough search of the Groshens et al. disclosure fails to reveal any mention of Saxony carpets at all. A word search of Groshens, et al fails to find the word "carpet" and fails to find the word "Saxony". It is not clear how it would be obvious to form Saxony carpet singles yarns or Saxony carpets based on the disclosure of U.S. patent 5,414,984.

Groshens relates to reinforcement yarns, which are clearly patentably distinct from the claimed invention. It is urged that the certain concessions regarding reinforcement yarns were made by the assigned Examiner in the prosecution of the parent case to the present application. The present application is a divisional application of U.S. application serial

number 09/723,643, now U.S. patent 6,658,835. After the original filing of U.S. 09/723,643, the Examiner in that case issued a restriction requirement dated September 27, 2002, forming three groups of claims. A copy of this restriction requirement is provided in the Evidence Appendix. According to the restriction requirement, the first group of claims was drawn to an untwisted wrapped singles yarn, which claims were granted in U.S. patent 6,658,835. The second group of claims was drawn to the Saxony carpet untwisted wrapped singles yarn and Saxony carpet of currently pending claims 27 and 28. The third group of claims was drawn to a method of making a Saxony carpet, which claims are currently being prosecuted as part of U.S. application serial number 10/631,320. Group 1 was selected for examination without traverse. Upon issuing the restriction requirement, the claims of groups 1-3 were therefore held to be patentably distinct from each other and non-obvious variants. Particularly, the non-Saxony untwisted singles yarn of claim group 1 was held to be patentably distinct from the Saxony carpet untwisted wrapped singles yarn because inventions 1 and 2 were mutually exclusive species in an intermediate-final product relationship. The restriction requirement further directly stated that the invention of group 1 "is deemed to be useful as reinforcement yarns in composite materials or to make loop pile carpets, or other style carpets instead of Saxony carpets and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants". Thus, it is urged that the Saxony carpet untwisted wrapped singles yarns of the present invention are patentably distinct from reinforcement materials, such as those described in Groshens.

The Examiner presently asserts that Groshens et al. essentially teaches the invention as described, but fails to specifically teach a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber. In an effort to fill this void, the Examiner cites Tung. Indeed Tung discloses nylon base fibers having melting points of 230°C or and 260°C respectively, and a polyester fiber having a melting point of about 130-170°C. However, it is urged that there is no motivation in the art for combining Tung with Groshens in an effort to devise the present invention. First, as stated above, Groshens does not relate in *any* way to carpet yarns or carpet formation. In contrast,



Tung specifically relates to the formation of carpets and carpet yarns. Appellants respectfully submit that one skilled in the art would not have been inspired to combine these references in the first place. Additionally, Tung relates exclusively to the formation of *ply-twisted* yarns. As stated in Tung at col.1, lines 30-35, their sliver is twisted on a spinning machine to form a singles twisted yarn, which may then be twisted with other singles twisted yarns to form a ply-twisted yarn. This directly contrasts the presently claimed invention, which is directed solely to the formation of *untwisted* wrapped singles yarns that are not twist set.

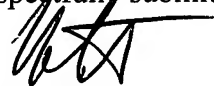
The Examiner also argues that it would have been obvious for one skilled in the art to utilize a 20° temperature difference between a base fiber and a binder fiber because if the two fibers were bonded together with heat it would produce a "very course[sic] single rod structure which is useless for further production", and that the ordinary skilled artisan would obviously understood the temperature difference to use. However, Groshens indeed teaches strong reinforcement threads where the first cladding fibers 3 are bonded and firmly fixed to the core thread by use of an adhesive or other polymeric adherence substance (see col. 3, lines 7-13; col. 3, line 61 – col. 4, line 11). According to the reference, the core threads 2 have "great rigidity" and threads 1 may advantageously replace lapped horsehair threads (see col. 4, lines 58-67). These reinforcement threads alone are not acceptable for the formation of carpets and are only for the reinforcement of fabrics and textiles. In view of this disclosure, the Examiner has not shown how the applied prior art is such that it would have provided one of ordinary skill in the art with both a motivation to carry out the claimed invention and a reasonable expectation of success in doing so. See In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991); In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988).

It is respectfully submitted that the claimed invention is not obvious in view of the teachings of Groshen et al. and Tung. "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." In re Geiger, 2 U.S.P.Q.2d 1276,

1278 (CAFC 1987). As stated above, Groshen claims a process for producing reinforcement threads for reinforcing existing woven or knitted fabrics and textiles, which is unrelated to Saxony carpeting or yarns for the formation of carpeting at all. Furthermore, both the core thread and the cladding fibers of Groshen differ from the core strand and wrapper yarn of the invention, respectively. Tung relates to the formation of ply-twisted yarns, and is not only unrelated to Groshen, but also teaches away from the presently claimed *untwisted* wrapped singles yarns. It is urged the motivations of the present invention and the cited references differ significantly, and there is simply nothing in the cited art to suggest to one skilled in the art that these references would or should be combined, or that a combination thereof would achieve the claimed result. It is submitted that the Examiner is reconstructing the art in light of Applicant's disclosure.

For all the above reasons, it is submitted that claims 27, 28 and 30-47 are patentable over the cited references, and the rejections should be overruled.

Respectfully submitted,



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Date: June 27, 2007

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage pre-paid in an envelope addressed to Commissioner for Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on June 27, 2007



Richard S. Roberts

## VIII. CLAIMS APPENDIX

27. A Saxony carpet untwisted wrapped singles yarn comprising:

- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and
- b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn;

wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

28. A Saxony carpet manufactured from an untwisted wrapped singles yarn, wherein the untwisted wrapped singles yarn comprises:

- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and
- b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn;

wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

30. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn is a continuous filament yarn of about 20 to 200 denier.

31. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn is a continuous filament yarn of about 40 to 80 denier.

32. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn contains about 5 to 95 weight percent of the heat activated binder fiber.

33. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn contains about 15 to 85 weight percent of the heat activated binder fiber.

34. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn contains about 25 to 75 weight percent of the heat activated binder fiber.

35. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn makes about 2 to 10 wraps per inch about the core strand.

36. The untwisted wrapped singles yarn of claim 27 wherein the wrapper yarn makes about 3 to 5 wraps per inch about the core strand.

37. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a sliver of about 0.8 to 6 cotton count.

38. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a sliver of about 1 to 5 cotton count.

39. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a sliver of about 1 to 3 cotton count.

40. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a bulked continuous filament yarn of about 900 to 6000 denier.

41. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a bulked continuous filament yarn of about 1000 to 5300 denier.

42. The untwisted wrapped singles yarn of claim 27 wherein the core strand is a bulked continuous filament yarn of about 1000 to 3000 denier.

43. The untwisted wrapped singles yarn of claim 27 wherein the core strand is comprised of at least one member selected from the group consisting of textile fibers of cotton, wool, polyester, polyolefin, and polyamide.

44. The untwisted wrapped singles yarn of claim 27 wherein the core strand contains about 0-12 weight percent of a heat activated binder fiber having a melting point at least about 20 °C lower than the textile fiber constituents.

45. The untwisted wrapped singles yarn of claim 27 wherein the core strand contains about 0 to 6 weight percent of a heat activated binder fiber having a melting point at least about 20 °C lower than the textile fiber constituents.

46. The untwisted wrapped singles yarn of claim 27 wherein the core strand contains about 0 to 3 weight percent of a heat activated binder fiber having a melting point at least about 20 °C lower than the textile fiber constituents.

47. The untwisted wrapped singles yarn of claim 27 wherein the total content of heat activated binder fiber is 0.05-2.5 weight percent of the total yarn.

IX. EVIDENCE APPENDIX

See the attached restriction requirement dated September 27, 2002 for U.S. patent application serial no. 09/723,643.

X. RELATED PROCEEDINGS APPENDIX

None.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
Patent Review Division and Trademark Office  
Address: USPTO Building 400, Patent and Trademark Office  
Washington, D.C. 20501  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,643	11/28/2000	Charles Edward Bowers	30-4397	6509

7590 09/27/2002  
Virginia Sziget Andrews  
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Colonial Heights, VA 23834

*Response due  
10/27/02  
(1/27/03)*

EXAMINER	
BEFUMO, JENNA LEIGH	
ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



# Office Action Summary

Application No.

08/723,843

Applicant(s)

BOWERS, CHARLES EDWARD

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO 948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.



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## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 - 26, drawn to an untwisted singles yarn, classified in class 57, subclass 210<sup>+</sup>.
  - II. Claims 27 and 28, drawn to a Saxony carpet, classified in class 428, subclass 85.
  - III. Claim 29, drawn to a method of making a Saxony carpet, classified in class 57, subclass 309.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as reinforcement yarns in composite materials or to make loop pile carpets or other style carpets instead of Saxony carpets and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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3. Inventions III and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the Saxony carpet can be made by texturing the wrapper yarn in a stuffer box before making the finished carpet.

4. Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions effects. Invention I is an untwisted wrapped yarn, while Invention III produces a Saxony carpet which includes heat setting the yarn.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Virginia Szigeti on September 25, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

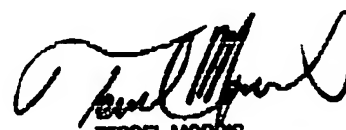
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Belfumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (9:00 - 5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo  
September 25, 2002



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700